

REMARKS/ARGUMENTS

I. Restriction

Applicants hereby elect with traverse the claims of Group I (claims 1-6 and 11-13).

The Examiner argued that there was a lack of unity because the claims allegedly lack the same technical effect over the prior art. Specifically, the Examiner stated:

The claims of Groups I-VIII lack a special technical feature that corresponds to a special technical feature that distinguishes the claims over the prior art.
(Office Action, paragraph 2)

However, the Examiner has not cited *any* prior art. Thus, the Examiner has not set forth *any* reason why the claims lack unity. It should be noted that the International Search Report for the corresponding PCT application listed one "P,X" reference, but the current claims have support in the priority application, and so pre-date the cited reference. Moreover, the USPTO, acting as the International Search Authority, indicated in the International Preliminary Examination Report that all claims examined were novel and non-obvious. Finally, it should be noted that the priority application, to Applicants knowledge, is the first to identify the IC-RFX sequence as well as its pancreatic-specific expression and role in diabetes.

In view of the above arguments, Applicants submit that the Examiner has no basis for stating that the claims lack unity or that they lack a technical effect over the prior art when in fact no prior art was cited and all examinations of the corresponding PCT application indicated that the claims were novel and inventive. Accordingly, Applicants respectfully request that the Examiner reconsider and/or withdraw the restriction. Applicants note that Groups I, IV and VII each recite specific polynucleotides or methods of use of the polynucleotides. Therefore, at a minimum, Applicants respectfully request the Examiner consider examining at least Groups I, IV and VII together.

II. Request for species election

On page 3 of the Office Action, the Examiner indicated that an "election of species" was required. It is not clear from the Office Action what species are referred to. Generally when a request for species is made, the Office Action indicates example species or otherwise indicates the genus from which a species should be selected. Thus, it is not clear to Applicants whether the Office Action simply included a typographical error or otherwise mistakenly referred to "species".

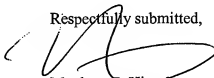
To the extent the Examiner intended to request an election of species with regard to sequences encompassed by the claims, Applicants elect a nucleic acid encoding SEQ ID NO:2. Claims 1-6 read on the elected species. Further, claims 11-17 and 32-40 involve use of the elected nucleic acid. Applicants request that upon allowance of the claims, the Examiner consider rejoinder of withdrawn species if they are embraced by the allowed generic claims.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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